

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

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DAVID S. GRONIK, JR. and MARY K. GRONIK,  
S.C.B.,  
MAG.,  
DAVID S. GRONIK, JR. LIVING TRUST,

OPIO BOAT MOON, LLC,

Plaintiffs,

v.

Case No. 10-CV-954

NORMAN BALTHASAR and SUSAN BALTHASAR,

Defendants,

and

SHOREWEST REALTORS, INC., CONTINENTAL  
CASUALTY COMPANY, and ANNE SCHWARTZ,

Third-Party Defendants.

and

OPIO BOAT MOON, LLC, and DAVID S. GRONIK, JR.,

Plaintiffs,

v.

Case No.11-CV-00697

CHUBB INDEMNITY INSURANCE COMPANY

Defendant.

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**AFFIDAVIT OF TODD S. SCHENK**

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I, Todd S. Schenk, being first duly sworn, depose and state as follows:

1. I have personal knowledge regarding the facts and circumstances stated herein.

2. I am an attorney for Chubb Indemnity Insurance Company ("Chubb") in the above-captioned matter.

3. Attached hereto as Exhibit A is a chart setting forth all of the line items in the Award for which Chubb has accepted coverage and issued payment, as described in Chubb's January 17, 2014 supplemental coverage determination letter.

4. Attached hereto as Exhibit B is a chart setting forth all of the line items in the Award for which Chubb has denied coverage and therefore did not issue payment, as well as the basis for Chubb's denial, as described in Chubb's January 17, 2014 supplemental coverage determination letter.

5. A true and accurate copy of a December 29, 2010 letter sent from my co-counsel, Fred Strampe, to the Groniks' counsel, Scott Halloin, Bates labeled CHUBB002613 to CHUBB002615 is attached hereto as Exhibit C.

6. A true and accurate copy of a June 24, 2011 letter sent from my co-counsel, Fred Strampe, to the Groniks' counsel, Scott Halloin, Bates labeled CHUBB014310 to CHUBB014321 is attached hereto as Exhibit D.

7. A true and accurate copy of Exhibit 9 to Tony Enea's deposition (pages RUV 000117 through RUV 000180 only) is attached hereto as Exhibit E.

8. A true and accurate copy of Exhibit 11 to the deposition of Ted Dentice is attached hereto as Exhibit F.

9. A true and accurate copy of Exhibit 3 to the deposition of Katie Falk is attached hereto as Exhibit G.

10. A true and accurate copy of Exhibit 15 to the deposition of Mr. Dentice is attached hereto as Exhibit H.

11. A true and accurate copy of Exhibit 21 to the deposition of Anne Schwartz is attached hereto as Exhibit I.

12. A true and accurate copy of Exhibit 12 to the deposition of Ms. Falk is attached hereto as Exhibit J.

13. A true and accurate copy of Exhibit 12 to the deposition of Mr. Dentice is attached hereto as Exhibit K.

14. A true and accurate copy of Exhibit 3 to the deposition of David ("Andy") Gronik is attached hereto as Exhibit L.

15. A true and accurate copy of Exhibit 1 to the deposition of Ron Dorszyski, is attached hereto as Exhibit M.

16. A true and accurate copy of Exhibit 33 to the deposition of Ms. Falk is attached hereto as Exhibit N.

17. A true and accurate copy of Exhibit 31 to the deposition of Ms. Falk is attached hereto as Exhibit O.

18. A true and accurate copy of Exhibit 10 to the deposition of Mr. Gronik is attached hereto as Exhibit P.

19. A true and accurate copy of Exhibit 7 to the deposition of Steven Staab is attached hereto as Exhibit Q.

20. A true and accurate copy of Exhibit 13 to the deposition of Mr. Dentice is attached hereto as Exhibit R.

21. A true and accurate copy of Exhibit 4 to the deposition of Ms. Falk is attached hereto as Exhibit S.

22. A true and accurate copy of Exhibit 5 to the deposition of Mr. Gronik is attached hereto as Exhibit T.

23. A true and accurate copy of Exhibit 19 to the deposition of Ms. Falk is attached hereto as Exhibit U.

24. A true and accurate copy of Exhibit 3 to the deposition of Susan Balthasar is attached hereto as Exhibit V.

25. A true and accurate copy of Exhibit 26 to the deposition of Mr. Dentice is attached hereto as Exhibit W.

26. Chubb responded to the Groniks' first set of interrogatories and requests for production of documents on July 16, 2012, to which it attached a coverage determination chart as Exhibit A. A true and accurate copy of Chubb's discovery responses, inclusive of the coverage determination chart, is attached hereto as Exhibit X.

27. A true and accurate copy of Exhibit 4 to the deposition of Chad Fischer is attached hereto as Exhibit Y-1. Also attached hereto as Exhibit Y-2 is a color version of the same document, for the Court's convenience.

28. A true and accurate copy of Exhibit 7 to the deposition of Dr. Fischer is attached hereto as Exhibit Z-1. Also attached hereto as Exhibit Z-2 is a color version of the same document, for the Court's convenience.

29. A true and accurate copy of Exhibit 6 to the deposition of Jay Karls is attached hereto as Exhibit AA.

30. A true and accurate copy of Exhibit 2 to Mr. Meiling's deposition, is attached hereto as Exhibit BB.

31. A true and accurate copy of Exhibit 1 to the deposition of Mark Ewing is attached hereto as Exhibit CC.

32. A true and accurate copy of Exhibit 17 to the deposition of Bob Bailey is attached hereto as Exhibit DD.

33. A true and accurate copy of Exhibit 2 to the deposition of Lloyd Schulman is attached hereto as Exhibit EE.

34. In another matter involving Chubb (and the same attorneys and experts who are representing the Groniks in this matter), *Strauss v. Chubb Indemnity Insurance Company, et al.*, Case No. 10-cv-981 (E.D. Wis.), Magistrate Judge Goodstein issued an order on February 13, 2013 addressing the parties' competing motions *in limine* as to whether scientific testing was necessary in order to apply the "wet or dry rot" portion of a Gradual or Sudden Loss exclusion similar to the one present in the Chubb Policy. A true and accurate copy of the February 13, 2013 order in the *Strauss* matter is attached hereto as Exhibit FF.

35. Mr. Gronik was deposed in this matter on June 18, 2012 and October 24, 2012. A true and accurate copy of relevant excerpts of Mr. Gronik's deposition transcript is attached hereto as Exhibit GG.

36. Mrs. Balthasar was deposed in this matter on October 20, 2011 and September 18, 2012. A true and accurate copy of relevant excerpts of Mrs. Balthasar's deposition transcript is attached hereto as Exhibit HH.

37. Chubb's adjuster Steve Mortensen was deposed in this matter on July 25, 2012, September 24, 2012, March 7, 2013, and July 22, 2014. A true and accurate copy of relevant excerpts of Mr. Mortensen's deposition transcript is attached hereto as Exhibit II.

38. Chubb's expert Dr. Domel was deposed in this matter on December 6, 2012 and February 14, 2013. A true and accurate copy of relevant excerpts of Dr. Domel's deposition transcript is attached hereto as Exhibit JJ.

39. Chubb's expert Dr. Fischer was deposed in this matter on November 6, 2012 and January 8, 2013. A true and accurate copy of relevant excerpts of Dr. Fischer's deposition transcript is attached hereto as Exhibit KK.

40. Chubb's expert Geof Johnson was deposed in this matter on November 20, 2012 and January 11, 2013. A true and accurate copy of relevant excerpts of Mr. Johnson's deposition transcript is attached hereto as Exhibit LL.

41. Chubb's non-retained expert Joe Rath sack was deposed in this matter on November 8, 2012. A true and accurate copy of relevant excerpts of Mr. Rath sack's deposition transcript is attached hereto as Exhibit MM.

42. The Groniks' expert Tony Enea was deposed in this matter on June 12, 2012 and May 7, 2013. A true and accurate copy of relevant excerpts of Mr. Enea's deposition transcript is attached hereto as Exhibit NN.

43. The Groniks' expert Jay Karls was deposed in this matter on June 28, 2012 and October 8, 2012. A true and accurate copy of relevant excerpts of Dr. Karls' deposition transcript is attached hereto as Exhibit OO.

44. The Groniks' expert Kim Anderson was deposed in this matter on June 29, 2012, November 13, 2012, April 3, 2013, and August 19, 2014. A true and accurate copy of relevant excerpts of Dr. Anderson's deposition transcript is attached hereto as Exhibit PP.

45. The Groniks' expert Patrick O'Neil was deposed in this matter on June 13, 2012 and October 4, 2012. A true and accurate copy of relevant excerpts of Mr. O'Neil's deposition transcript is attached hereto as Exhibit QQ.

46. Ron Dorszyski was deposed in this matter on October 22, 2012. A true and accurate copy of relevant excerpts of Mr. Dorszyski's deposition transcript is attached hereto as Exhibit RR.

47. Nicholas Kerzner was deposed in this matter on July 3, 2012. A true and accurate copy of relevant excerpts of Mr. Kerzner's deposition transcript is attached hereto as Exhibit SS.

48. Michael Koklas was deposed in this matter on November 1, 2012 and April 10, 2013. A true and accurate copy of relevant excerpts of Mr. Koklas' deposition transcript is attached hereto as Exhibit TT.

49. Paul Metrie was deposed in this matter on March 14, 2012. A true and accurate copy of relevant excerpts of Mr. Metrie's deposition transcript is attached hereto as Exhibit UU.

50. Kelly Reimer was deposed in this matter on April 26, 2012 and June 27, 2012. A true and accurate copy of relevant excerpts of Mr. Reimer's deposition transcript is attached hereto as Exhibit VV.

51. Richard Sauer was deposed in this matter on December 11, 2012. A true and accurate copy of relevant excerpts of Mr. Sauer's deposition transcript is attached hereto as Exhibit WW.

52. Franz Schermer was deposed in this matter on September 28, 2012. A true and accurate copy of relevant excerpts of Mr. Schermer's deposition transcript is attached hereto as Exhibit XX.

53. Richard Sherer was deposed in this matter on August 8, 2012. A true and accurate copy of relevant excerpts of Mr. Sherer's deposition transcript is attached hereto as Exhibit YY.

54. Lloyd Ter Maat was deposed in this matter on June 21, 2012. A true and accurate copy of relevant excerpts of Mr. Ter Maat deposition transcript is attached hereto as Exhibit ZZ.

55. The Balthasars' expert Paul Reed Williams was deposed in this matter on October 29, 2012 and February 18, 2013. A true and accurate copy of relevant excerpts of Mr. Williams' deposition transcript is attached hereto as Exhibit AAA.

56. Steve Barnekow was deposed in this matter on April 18, 2012 and April 19, 2012. A true and accurate copy of relevant excerpts of Mr. Barnekow's deposition transcript is attached hereto as Exhibit BBB.

57. Scot McLean was deposed in this matter on July 2, 2012. A true and accurate copy of relevant excerpts of Mr. McLean's deposition transcript is attached hereto as Exhibit CCC.



58. Mark Meiling was deposed in this matter on October 23, 2012. A true and accurate copy of relevant excerpts of Mr. Meiling's deposition transcript is attached hereto as Exhibit DDD.

59. Charles Reiter was deposed in this matter on October 23, 2012. A true and accurate copy of relevant excerpts of Mr. Reiter's deposition transcript is attached hereto as Exhibit EEE.

60. The Balthasars' expert John Wlascinski was deposed in this matter on December 13, 2012. A true and accurate copy of relevant excerpts of Mr. Wlascinski's deposition transcript is attached hereto as Exhibit FFF.

61. A true and accurate copy of a June 20, 2011 letter sent from my co-counsel, Mr. Strampe, to the Groniks' counsel, Mr. Halloin, Bates labeled CHUBB013665 to CHUBB013671 is attached hereto as Exhibit GGG.

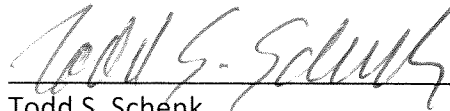
62. A true and accurate copy of Exhibit 16 to the deposition of Dr. Fischer is attached hereto as Exhibit HHH-1. Also attached hereto as Exhibit HHH-2 is a color version of the same document, for the Court's convenience.

63. A true and accurate copy of Exhibit 10 to the deposition of Mr. Dentice is attached hereto as Exhibit III.

64. A true and accurate copy of Part 1 of the Appraisal Award, which was previously filed as Doc. 599-13, is attached hereto as Exhibit JJJ.

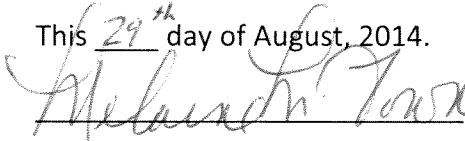
65. A true and accurate copy of Part 2 of the Appraisal Award, which was previously filed as Doc. 599-14, is attached hereto as Exhibit KKK.

FURTHER AFFIANT SAYETH NAUGHT.

  
Todd S. Schenk

Subscribed and sworn to before me

This 29<sup>th</sup> day of August, 2014.



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